

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AMANDA HILL,

Plaintiff,

v.

MARGARET DEAN, also known as MARGARET
HILL, and UNITED STATES OF AMERICA,

Defendants.

MEMORANDUM & ORDER
14-CV-520 (MKB) (JO)

MARGO K. BRODIE, United States District Judge:

Plaintiff Amanda Hill, proceeding *pro se*, commenced the above-captioned action on January 16, 2014, against Defendants United States Department of Veterans Affairs (the “VA”) and Margaret Dean, asserting fraud and negligence claims. (Compl., Docket Entry No. 1.) Plaintiff filed an Amended Complaint on July 24, 2014 and a Second Amended Complaint on February 12, 2015. (Am. Compl., Docket Entry No. 7; Sec. Am. Compl., Docket Entry No. 12.) Plaintiff filed the operative Third Amended Complaint (“TAC”) on February 2, 2016, replacing the VA with the United States of America (the “United States”). (Third Am. Compl. (“TAC”), Docket Entry No. 14.)

On March 30, 2017, Magistrate Judge James Orenstein issued a report and recommendation, recommending that the Court dismiss the claims against Dean due to Plaintiff’s failure to prosecute (the “March 2017 R&R”). (First R&R 3.)

On October 25, 2017, the United States moved to dismiss the TAC, or, in the alternative, for summary judgment. (Defs. Mot. to Dismiss or for Summ. J., Docket Entry No. 36.) On March 26, 2018, the Court referred the motion to Judge Orenstein for a report and

recommendation. (Order dated Mar. 26, 2018.) By report and recommendation dated September 14, 2018, Judge Orenstein recommended that the Court grant the United States' motion in its entirety, and dismiss with prejudice all claims against the United States (the "September 2018 R&R"). (Sec. R&R 10.)

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit 'may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.'" *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's report and recommendation if the party fails to file timely objections designating the particular issue." (citations omitted)).

The Court has reviewed the unopposed March 2017 R&R and September 2018 R&R and, finding no clear error, adopts the R&Rs in their entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court dismisses all claims against Dean, grants the United States' motion, and dismisses the TAC with prejudice. The Clerk of Court is directed to close this case.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: September 30, 2018
Brooklyn, New York